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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/270,141	03/16/1999	GARY D. FOSTER	SMQ-011	2096

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EXAMINER
INGBERG, TODD D   5

ART UNIT	PAPER NUMBER
2124	

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Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

Office Action Summary	Application No. 09/270,141	Applicant(s) FOSTER, GARY D.
	Examiner Todd Ingberg	Art Unit 2124

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _10 May 2001_ .

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-52_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) _30-34 and 47-52_ is/are allowed.

6)☐ Claim(s) _1-12,14-29 and 35-46_ is/are rejected.

7)☐ Claim(s) _13_ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____ .

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _2,3,4_ .

4)☐ Interview Summary (PTO-413) Paper No(s). _____ .
5)☐ Notice of Informal Patent Application (PTO-152)
6)☐ Other: _____ .

DETAILED ACTION

Claims 1 - 52 have been examined.

Information Disclosure Statement

1.   The information disclosure statements (IDS) filed September 3, 1999, December 11, 2000

and May 10, 2001 have been considered.

Drawings

2.   The drawings filed on March 16, 1999 were objected to by the Draftsperson as indicated

on form PTO-948.

Specification

3.   The title of the invention is not descriptive. A new title is required that is clearly

indicative of the invention to which the claims are directed. The term "lightweight" is

speculative. The Specification provides no evidence to quantify the allegation the invention

"...incurs minimal computational and memory overhead.", less than products in the IDS. The

Examiner did include a reference stating the product "PointCast still hogs our network". And

that improvements are reported to have been made.

Claim Rejections - 35 U.S.C. § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed
publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5.   Claims 1 - 3, 5, 8- 10 and 24 - 26 are rejected under 35 U.S.C. 102(a,b) as being

anticipated by "The **Internet** Unleashed", First Edition, published in 1994.

Claim 1

Internet anticipates in a distributed system having a publishing master **(Internet**, page 468, FTP

- all files on a server) and a client system **(Internet**, FTP page 471, copy to client), a method

comprising: providing at the publishing master an index of available packages for loading

(Internet, page 469, DIR on files in public area); accessing the index on behalf of the client

system to identify at least one selected package for loading at the client system **(Internet**, page

469, DIR on files in public area); and loading the selected package at the client system **(Internet**,

page 471, transfer mode).

Claim 2

The method of claim 1 wherein the selected package is loaded without registration of the client

system with the publishing master. **(Internet**, page 468, anonymous FTP).

Claim 3

The method of claim 1 wherein the publishing master is unaware of the loading of the selected

package at the client system.**(Internet**, page 468, anonymous FTP).

Claim 5

The method of claim 1 further comprising the step of storing the selected package at a repository that is separate from the publishing master so that clients may access and load the selected package. (Internet, page 468, Basic operations, moving files to the public access files)

Claim 24

In a distributed system having a publishing master, packages available for installation and an index of the packages available for installation which is stored at the publishing master, a client computer system, comprising: means for accessing the index on behalf of the client system to identify at least one selected package for installation at the client system; and means for installing the selected package at the client system. As per claim 1.

Claim 25

The client computer system of claim 24 wherein the selected package is installed without registration for the client system with the publishing master. As per claim 2.

Claim 26

The client computer system of claim 24 wherein the publishing master is unaware of the installing of the selected package at the client system. As per claim 3.

Claim 8

The method claim 1 wherein the publishing master is a web server. (**Internet**, Page 468, FTP Server).

Claim 9

Internet anticipates in a distributed system having a server and a client (as per claim 1), a

method comprising: storing at the server information identifying packages that may be installed

at the client (files in public area as per claim 1); storing at the client data that identifies packages

to which the client subscribes (**Internet**, ftpmail - email as a form of subscribing, page 483); and

using the information identifying packages that may be installed at the client and the data that

identifies packages to which the client subscribes to determine which of the packages are to be

installed at the client (Internet, page 483, ftpmail).

Claim 10

The method of claim 9 further comprising installing the determined packages at the client.

(**Internet**, page 488, paragraph 6).

6.   Claims 14 - 17, 20 - 23, 35, 37 - 40 and 43 - 44 are rejected under 35 U.S.C. 102(b) as

being anticipated by **PUSH** Technology for Dummies by Bud Smith published 1997.

Claim 14

PUSH anticipates in a computer network having a server and a client (**PUSH**, page 216, Figure

11-4, Web and User's Hard Drive), a method comprising the computer-implemented steps of:

(a) providing at the server data regarding what packages are available for installation (**PUSH**,

page 216, Figure 11-4, Linked pages are for selection for downloading);

(b) providing at the client an itemization of packages to which the client subscribe (**PUSH**, page

216, Figure 11-4, Linked pages are for selection for downloading, page 221, list, figure 11-5);

and

(c) with the client, repeating multiple times the following steps:

(i) accessing the data regarding what packages are available and accessing the itemization of

packages to which the client subscribes to determine what selected packages to install

(**PUSH**, page 216, Figure 11-4, Subscribe); and

(ii) installing selected packages at the client **PUSH**, page 222,last sentence Installation).

Claim 15

The method of claim 14 wherein steps (c)(i) and (c)(ii) are repeated at periodic intervals (**PUSH**,

page 236, Customize Schedule).

Claim 16

The method of claim 14 wherein steps (c)(i) and (c)(ii) are repeated upon demand by a user

(**PUSH**, page 237, Figure 12-3).

Claim 17

PUSH anticiaptes in a distributed system having a publishing master (**PUSH**, page 216, LIVE

Web), at least one repository for holding packages and multiple client computer systems (**PUSH**,

page 216, User's hard drive), a method comprising: providing a package index at the publishing

master, wherein the package index identifies names and versions of packages stored on the

repository (**PUSH**, page221, last item shows name and size); providing a subscription list at

each client system, wherein each subscription list identifies the packages to which the client

system subscribes (**PUSH**, page 235, Subscribing); and. for each client system, at periodic

intervals (**PUSH**, page 235, update schedule):

(i) identifying selected packages to be loaded by referencing the package index and the

subscription list (**PUSH**, page 221, Figure 11-5 associations to links); and

(ii) loading the selected packages at the client system (**PUSH**, page 222, download).

Claim 20

A distributed system, comprising: a publishing master holding an index of packages that are

available for installation; a repository for storing the packages that are available for installation;

and a client computer system for identifying selected packages among the packages indexed by

the index of packages, obtaining the selected packages from the repository and installing the

selected packages at the client computer system. As per claim 17.

Claim 21

The distributed computer system of claim 20 wherein the client computer system maintains a

subscription list of packages to which the client computer system subscribes. As per claim 17.

Claim 22

The distributed computer system of claim 20 further comprising an additional repository for

storing at least a portion of the packages that are available for installation. As per claim 14.

Claim 23

The distributed computer system of claim 20 further comprising an additional client computer

system for identifying a subset of the packages indexed by the index of packages, obtaining the

subset of packages from repository and installing the subset of packages at the additional client

computer system. As per claim 17.

Claim 35

In a distributed system having a publishing master holding a package index of packages, and a client system holding a subscription list that identifies packages to which the client system subscribes, a computer-readable medium holding computer executable instructions for performing a method, comprising: identifying selected packages to be loaded at the client system by referencing the package index and the subscription list; and loading the selected packages at the client system. As per claim 17.

Claim 37

In a distributed system having a publishing master holding a package index of packages, and a client system holding a subscription list that identifies packages to which the client system subscribes, a transmission medium for transmitting signals for performing a method, comprising: identifying selected packages to be loaded at the client system by referencing the package index and the subscription list; and loading the selected packages at the client system. As per claim 17.

Claim 38

In a distributed system having a publishing master with an index of packages available for installation and a client system, a method performed by the client system comprising: requesting at least a portion of the index from the publishing master; receiving at least a portion of the index from the publishing master in response to the request; processing the received portion of the index to identify a selected package to install; and obtaining a copy of the selected package. As per claim 17.

Claim 39

The method of claim 38 further comprising the step of installing the package at the client system.
As per claim 17.

Claim 40

The method of claim 38 wherein the selected package is obtained without registration of the
client system with the publishing master. (**PUSH**, page 241, Channel)

Claim 43

In a distributed system having a publishing master having an index of packages available for
installation and a client system, a computer-readable medium holding computer-executable
instructions for performing a method performed by the client system comprising: requesting at
least a portion of the index from the publishing master; receiving at least a portion of the index
from the publishing master in response to the request; processing the received portion of the
index to identify a selected package to install; and obtaining a copy of the selected package. As
per claim 17.

Claim 44

The storage medium of claim 43 wherein the selected package is obtained without registration of
the client system with the publishing master. (**PUSH**, page 241, Channel).

Claim Rejections - 35 U.S.C. § 103

7.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all
obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8.   Claims 4, 6, 7, 27 - 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Internet in view of Official Notice of claiming data. The Applicant has claimed the type of data

being transferred. The FTP utility makes no distinction between the type of data. Specifying the

type of data downloaded is "nonfunctional descriptive material" and not given patentable weight.

Claim 4

The method of claim 1 wherein the selected package includes a patch for a computer program.

The download of files with FTP is not selective as to the file type or context of the file.

Claim 6

The method of claim 1 wherein the selected package includes a document. As per claim 4.

Claim 7

The method of claim 1 wherein the selected package includes at least one hypertext markup

language (HTML) file. As per claim 4.

Claim 27

The client computer system of claim 24 wherein the selected package includes a patch for a

computer program. As per claim 4.

Claim 28

The client computer system of claim 24 wherein the selected package includes a document. As

per claim 6.

Claim 29

The client computer system of claim 24 wherein the selected package includes at least one

hypertext markup language (HTML) file. As per claim 7.

9.   Claims 11 - 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Intenet in

view of Using the Windows 95 **Registry**, by Jerry Honeycutt, published 1996.

Claim 11

The Internet reference teaches downloading software which can be installed. However, it does

not teach the specifics of installing software on a machine that uses a registry. It is Registry that

teaches installing software on a system with a registry where the system checks to see if the

software has already been installed and extracts information such as version and ID (Registry,

page 15 - Registry Information). Therefore, it would have been obvious to one of ordinary skill in

the art at the time of invention to combine the teachings of Internet with the Registry because

downloading software and installing it on a PC makes it more expandable.

The method of claim 9 further comprising providing data regarding what packages have already

been installed at the client and using the data regarding what packages have already been

installed in determining which of the packages are to be installed at the client (Key already exists

or needs to be made for entry into Registry).

Claim 12

The method of claim 9 wherein the information identifying packages that may be installed at the

client includes information identifying names and version of the packages. As per claim 11

10.   Claims 18, 19, 36, 41 - 42, 45 - 46 are rejected under 35 U.S.C. 103(a) as being

unpatentable over PUSH in view of Official Notice of claiming data. The Applicant has claimed

the type of data being transferred. The transfer utility of FTP/HTTP utility makes no distinction

between the type of data. Specifying the type of data downloaded is "nonfunctional descriptive

material" and not given patentable weight..

Claim 18

The method of claim 17 wherein at least one of the packages that is loaded includes at, least one

patch. As per above.

Claim 19

The method of claim 18 wherein at least one of the packages that is loaded includes multiple

patches.As per above.

Claim 36

The computer-readable medium of claim 35 wherein at least one of the packages loaded at the

client system includes at least one patch. As per above.

Claim 41

The method of claim 38 wherein the selected package contains a patch. As per above.

Claim 42

The method of claim 38 wherein the selected package contains a document. As per above.

Claim 45

The storage medium of claim 43 wherein the selected package contains a patch. As per above.

Claim 46

The storage medium of claim 41 wherein the selected package contains a document. As per above.

Allowable Subject Matter

11. Claims 30 - 34 and 47 - 52 are allowed.

12. Claim 13 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

13. Many of the claim limitations are directed toward data as opposed to the ability transfer data. The invention is directed toward the ability to download data. Type of data transferred was not given patentable weight it is merely data. The transfer of different types of data is old and well known and the transfer of a type of data was not demonstrated to be new or non obvious.

14. The Registry is old and well known for Microsoft products.

Correspondence Information

15. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to **Todd Ingberg** whose telephone number is **(703) 305-9775.** The Examiner is working a Maxi-Flex schedule and can be reached Monday through Friday. If attempts to reach the examiner by telephone are unsuccessful, the **Examiner's Supervisor,** **Kakali Chaki** be reached at **(703)305-9662.** Any response to this office action should be mailed
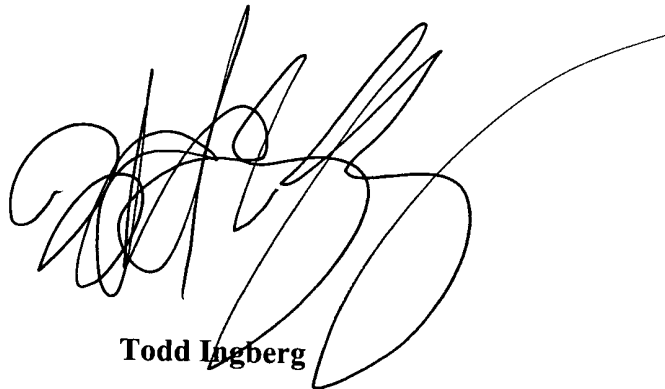
to: **Director of Patents and Trademarks Washington, D.C. 20231**, or **Hand-delivered**

responses should be brought to **Crystal Park II, 2121 Crystal Drive Arlington, Virginia,**

(Receptionist located on the fourth floor), or **faxed.** The following **fax numbers** apply:

Official	**(703) 746 - 7239**
Non Official/ Draft	**(703) 746 -7240**
After Final	**(703) 746 - 7238**

Todd Ingberg

Patent Examiner

Art Unit 2124

February 24, 2003